

REMARKS

In the 4 April 2008 action claims 4, 8, 10, 11, 13, 21 and 25 were rejected as anticipated by Anderson '887 issued Nov. 14, 1922 (USP 1,436,887, issued November 14, 1922), claims 12 and 24 were rejected as obvious in relation to to Anderson; claims 22, 23 and 26-28 were rejected as obvious in relation to a combination of Anderson '887 and Gunvalson '875 (USP 3,703,875, issued Nov. 28, 1972); claimd 3, 5, 9, 16-20 remain withdrawn from consideration, the previous prior art rejection based on Place and Hight et al. are withdrawn and 53 patents were cited of interest. The rejections are respectfully traversed for reasons stated below. The 53 references cited of interest have been studied carefully and are commented below. Reasons for citing most of them are not clear and the Examiner is asked to review the comments and see if there is a pertinence to any one or more of them intended by the Examiner's selection but missed in Applicant's review and comments. Remarks below also include remarks of real world evidence shown in the Rule 132 Declaration submitted by Applicant in his prior responses.

1. Anderson '887 Does Not Anticipate Claims 4, 8, 10, 11, 13, 21 and 25 (nor render any of them unpatentable under sec. 103).

This reference describes an aligning clip for installing and aligning gaskets with flanges of pipe sections. The clips are not constructed for and are not taught as attachment points for deck mounted objects as described and claimed in the present application and not realistically capable of such function. The clip needs to be a high deflection/compression spring operable with finger pressure to fulfill the function taught in the '877 patent. It compresses to fill a hole then expands to hold aligned parts in place. It is not configured to pass through a narrow gap between parallel boards and rotate for holding as described and claimed herein.

The reference shows a product designed, configured and actually for aligning two end-to-end adjacent pipes with an intermediate gasket or other assembled product. See col. 1, ll. 9-23. Note that the clips can't pass through the holes of the pipe flanges or gasket unless compressed while in the present invention compression is unnecessary to passage in gaps of deck boards and the holding strength of the clips of the present invention would be vitiated by using

the high degree of compression/release shown in Anderson '887. The reference does not anticipate, suggest or render obvious the subject matter of claims 4, 8, 10, 11, 13, 21 and 25.

2. Claims 12 and 24 Are Not Unpatentable as Obvious in Relation to Anderson '887.

It was not a matter of obvious design choice to select materials for the products of the present invention and in fact considerable study and experimentation was done. Note too the Rule 132 Declaration of 30 September 2007, pars. 1-8 (and particularly par. 7) and Declaration of Applicant of 6 March 2008, pars. 3, 5, 6 and related exhibits. But setting that aside without waiving the point, these claims are patentable at least in view of the factors set forth at section 1 above regarding non-anticipation/non-suggestion of claims 4, 8, 16, 17, 13, 21 and 25 in relation to Anderson '887.

3. Claims 22, 23 and 26-28 Are Not Unpatentable Over Any Valid Combination of Anderson '887 and Gunvalson '875.

The above remarks as to Anderson '887 are incorporated herein by references. As to Gunvalson '875, the vessel mooring or anchoring device described therein is a rigid bracket that passes between deck boards and is rotated but, contrary to the present invention (a) is not a wire and (b) has a small, circular head for attachment smaller than the gap between deck boards not one which is greater than such gap as described and claimed herein. This circa 1972 device of Gunvalson is wholly different from the spring clip in Anderson's 1922 clip in design, configuration, purpose and function. The small head of Gunvalson is supplemented by extra legs 14, 15 not needed in the present invention and indeed the extra legs, aside from adding costs, limit the ability to accommodate variation of thickness of deck or dock boards. There is no reason to combine the references and in the nearly four decades since the later Gunvalson reference or the nine decades since Anderson no one has done so. The present invention created a new product category and enjoyed technical and commercial success based on merit of the inventive product, all as shown in the Rule 132 Declaration. Claims 22, 23 and 26-28 should be allowed.

4. The Rule 132 Declaration of 30 September 2007, Supplemented 6 March 2008, was Misunderstood in the 4 April Action.

The declaration referred to potential competition of this application does not mature into a patent. The present invention is a new product category displacing prior make-shift artifacts which were unsatisfactory. The declaration also shows that the inventor/applicant has no significant capital or marketing resources. The inventive product succeeded on its own merit.

The potential free ride competition (absent a patent) referred to in the Rule 132 declaration would be large hardware companies whose low cost off-shore manufacturing capabilities, distribution networks, and large direct sales forces provide an insurmountable barrier to entry into this market by a small independent inventor or his licensee(s). This hard fact was proven to Applicant as indicated in the Declaration when he approached large retail chains, (including Lowe's and Home Depot). He was told by the buyers that from a logistics standpoint, they could not purchase this product directly from him. He was asked to work with, and specifically directed to, a large hardware distributor (Hillman) by the Lowe's buyer. They entered into a licensing agreement in which this hardware distributor would produce and distribute the invention.

Because of the merit of this invention and the previously unmet market need, major hardware producers have a keen interest in selling this product. Without patent protection, the license agreement will be cancelled, and there would be nothing Applicant can then do to prevent Hillman itself and many others from copying, manufacturing, and selling his invention. Hillman alone serves a customer base of over 20,000 retail stores. Due to an independent inventor's inability to compete in a market with such barriers, Applicant would lose any opportunity to profit or otherwise be rewarded for his invention unless he is granted this patent and it is quite clear that the invention came from Applicant alone, not from a Century's worth of prior art items cited in this case. The patent system is all about incentives for making such inventions, disclosing them and bringing them into public use and benefit.

5. The References Cited of Interest Taken Alone or with Each Other or Anderson or Gunvalson In Any Valid Combination Do Not Anticipate, Suggest or Render obvious Any Claims Now Presented.

It is also noted that the plethora of prior art available to those skilled in the art for most of the last 100 years without yielding the present invention is further evidence of non-obviousness.

Applicant submits the following brief summary of the 53 references and invites the Examiner to add to the comments if the Examiner had anything else in mind as in producing such an extraordinary burden on an independent inventor.

- 26,975 – A lever for turning faucets in a pipe. An internal T-shaped part. It is not applicable.
- 29,041 – A harmonium (musical instrument). Internal I-shaped parts. It is not applicable.
- 1,435,887 – The ANDERSON patent upon which claims were rejected. Discussed above.
- 1,441,737 – A wire sling hook for wrapping ropes around and lifting sacks. It is not applicable.
- 1,510,737 – Various forms of a wire hook for the top of a wooden clothes hanger. It is not applicable.
- 2,020,206 – PLACE – This was previously cited and withdrawn as a basis of rejecting claims.'
- 2,024,805 – PLACE – More variations of his clips, already addressed. It is not applicable.
- 2,043,007 – PLACE – Even more variations of his clips, already addressed. It is not applicable.
- 2,096,648 – PLACE – This was previously cited and withdrawn as a bar of rejecting claims.
- 2,215,428 – PLACE – Yet more variations of his clips, already addressed. It is not applicable.
- 2,221,009 – Spring clip for securing hollow moldings to apertured support. A variation of Place's clips by another inventor. It is not applicable.
- 2,260,690 – PLACE – Still even more variations of his clips. It is not applicable.
- 2,275,553 – PLACE – Still more variations. . It is not applicable.
- 2,392,648 – A package tie clip for tying string around a box (like ribbon on a gift box). It is not applicable.
- 2,406,665 – A clip similar to Place's clip, used for securing a covering to a surface. It is not applicable.
- 2,563,240 – Spring loaded sheet metal clip similar to Place's for attaching items to an apertured support. It is not applicable.
- 2,567,508 – Spring loaded fastener similar to Place with cam mechanism attached to lock into place. It is not applicable.
- 2,659,950 – Another variation of Place's clips by another inventor for securing moldings such as automobile trim. It is not applicable.
- 2,666,240 – The springs in spring clips that are on the bottom of clothes hangers (e.g. as for hanging pants or skirts). It is not applicable.
- 2,740,179 – Another variation of Place's clips by another inventor. Tyned feet to bite into one material. Such as securing rubber weather seals to an automobile body. It is not applicable.

- 2,754,561 – Further sheet metal variations of Place’s clip for attaching moldings. It is not applicable.
- 2,830,345 – Even more variations of Place’s clip for attaching rubber moldings. It is not applicable.
- 2,935,770 – Variations of clips similar to Place for attaching weather strips. It is not applicable.
- 3,703,875 – GUNVALSON –discussed above.
- 3,864,789 – Variations of clips similar to Place for attaching weather strips. It is not applicable.
- 4,078,512 – Spring clips attached to a boat anchor. It is not applicable..
- 4,221,039 – Almost exactly identical to Place, but used for temporarily aligning gaskets. This is essentially the same as the ANDERSON reference which was used to reject claims. The above arguments apply to overcome this reference.
- D258,138 – Design patent showing wire clips, but none that are the same as mine.
- 4,297,963 – Boat mooring clip consisting of shaft, coil spring, and washers. It is not applicable.
- 4,899,680 – Boat mooring clip very similar to GUNVALSON. Slight variations and showing extra applications. Extra set of arms as in GUNVALSON. The above arguments apply to overcome this reference.
- D321,470 – Design patent showing wire clips, none are the same as present claims.
- 5,210,912 – Coupling member and cleat, attaching ropes to other ropes. This was addressed in previous responses. It is not applicable.
- 5,412,848 – Hinged spring clip for wall fasteners. Multiple components. It is not applicable.
- 5,806,149 – A spring clip for attaching gaskets, similar to Place. It is not applicable.
- 5,879,101 – Another spring clip similar to Place, but legs extend back as a shield. It is not applicable.
- 5,897,278 – A turn fastener used for assembling two panels together. It is not applicable.
- D411,099 – A formed tie-down hook. Shape not similar to mine. It is not applicable.
- 5,967,075 – A spring loaded mooring device. Multiple components and coil spring. It is not applicable.
- 6,244,541 – A spring loaded retaining clip is used for wiring harnesses. Spring action is the key requirement, and the description includes all of the spring calculations required to make it work. It is not applicable.
- 6,295,942 – A docking clip having threaded nuts above and below a surface to clamp it. It is not applicable.
- 2002/0048495 – A “T” shaped cargo tie down fastener, probably similar to the one described in the next reference, 2003/0053879. It is not applicable.
- 2003/0053879 – “U” shaped sheet metal tie hooks that latch into holes in a channel as part of a truck bed cargo fastening system. It is not applicable.
- D477,255 – Design patent for a bolt-down bicycle parking rack. It is not applicable.
- 6,647,911 – Multiple component docking clip, friction loaded slide down clip. It is not applicable.
- 6,793,189 – A plastic clip of similar function to mine, but completely different in design and construction.
- 6,799,927 – A pickup truck bed rail system. No clips. It is not applicable.

- 6,805,247 – The bicycle locking stand from Design Patent D477,255 above. It is not applicable.
- 7,120,971 – A spring loaded fastening clip, variation of Place's clips. It is not applicable.
- 2007/0025822 – A multi-component hinged fastener for trucks and trailers. It is not applicable.
- 2007/0292229 – A published application filed later than the present one.
- 2008/0014041 – A published application filed later than the present one.
- 7,334,764 – Multiple plates with sockets and fibers to attach to a surface. It is not applicable.

The examined claims should be allowed. The claims withdrawn from consideration should now be considered and since dependent on examined and allowed claims should be allowed.

In sum, all of claims 3-5, 8, 13 and 16-28 should be allowed.

If there are questions, please call Applicant's attorney at (617) 345-3000. If any sums are owed due to claims adjustments, please debit or credit Deposit Account 03-2410. A duplicate copy of this page is enclosed for accounting purposes.

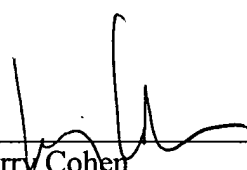
In any event a telephone interview is requested. Please call the undersigned attorney preliminarily to arrange a date and time for a later substantive interview with the inventor participating.

Respectfully submitted,

ROBERT P. BISHOP, Applicant

Dated: June 28, 2008

By: _____


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